

ESTTA Tracking number: **ESTTA413045**

Filing date: **06/06/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Universal International Music B.V.
Granted to Date of previous extension	06/05/2011
Address	Gerrit van der Veenlaan 4 Baarn, 3743 DN NETHERLANDS

Attorney information	Brent S. LaBarge c/o Universal Music Group 2220 Colorado Avenue Santa Monica, CA 90404 UNITED STATES brent.labarge@umusic.com, deanne.ozaki@umusic.com, nicole.villacorta@umusic.com Phone:(310) 865-1708
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Applicant Information

Application No	85069828	Publication date	12/07/2010
Opposition Filing Date	06/06/2011	Opposition Period Ends	06/05/2011
Applicant	Mango's Tropical Cafe, Inc. 900 Ocean Drive Miami Beach, FL 33139 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: DVDs featuring music and live entertainment
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1200278	Application Date	02/27/1981
Registration Date	07/06/1982	Foreign Priority Date	NONE
Word Mark	MANGO		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1980/08/01 First Use In Commerce: 1980/08/01 [Phonograph Records and] Prerecorded Audio Tapes

U.S. Registration No.	1749894	Application Date	09/04/1991
Registration Date	02/02/1993	Foreign Priority Date	NONE

Word Mark	MANGO
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1989/09/00 First Use In Commerce: 1990/01/00 musical sound recordings and [musical video recordings]

Attachments	74200708#TMSN.gif (1 page)(bytes) Notice of Opposition -- MANGO'S TROPICAL CAFE Ser. No. 85069828.pdf (13 pages)(47148 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Brent S. LaBarge/
Name	Brent S. LaBarge
Date	06/06/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 85/069,828
Mark: MANGO’S TROPICAL CAFE & Design

UNIVERSAL INTERNATIONAL MUSIC B.V.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
MANGO’S TROPICAL CAFE, INC.)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Universal International Music B.V., a Netherlands stock company with a business address at Gerrit van der Veenlaan 4, Baarn, 3743 DN, Netherlands, believes that it would be damaged by the issuance of a registration to Mango’s Tropical Cafe, Inc. (“Applicant”) for the mark that is the subject of Application Serial No. 85/069,828 (the “Application”) and hereby opposes registration of the same under the provisions of Section 13 of the Lanham Act, 15 U.S.C. § 1063, and Section 2.101 of the Trademark Rules of Practice, 37 C.F.R. § 2.101.

As grounds for this opposition, Universal International Music B.V. alleges as follows:

I. OPPOSER’S RIGHTS IN ITS MANGO MARKS

1. For many years, Universal International Music B.V. or a predecessor-in-interest (“Opposer”), as well as its licensees, have continuously used, and are currently using, the MANGO trademark and service mark (collectively, the “MANGO Marks”) in interstate and foreign commerce in connection with a wide variety of goods and services, including, without limitation, music- and entertainment-related goods and services.

2. The MANGO Marks are inherently distinctive and strong and are therefore entitled to a broad scope of protection.

3. As a result of Opposer's extensive, exclusive, and continuous use of the MANGO Marks and substantial promotion of goods and services offered under these marks, and by virtue of the high quality of the goods and services offered under the MANGO Marks, the MANGO Marks have become associated exclusively with Opposer and its goods and services. Consumers have come to rely on the MANGO Marks to identify Opposer's goods and services and to distinguish them from the goods and services of its competitors. As such, the MANGO Marks have developed extensive goodwill and consumer recognition in the United States and throughout the world.

4. The MANGO Marks are the subject of the following U.S. trademark registrations owned by Opposer: (1) Registration No. 1,200,278 for MANGO for use in connection with "prerecorded audio tapes" in International Class 9; and (2) Registration No. 1,749,894 for MANGO and Design for use in connection with "musical sound recordings" in International Class 9. True and correct copies of printouts from the U.S. Patent and Trademark Office's online Trademark Applications and Registrations Retrieval ("TARR") database showing the foregoing registrations are attached hereto collectively as Exhibit 1.

5. The foregoing registrations of Opposer are valid, subsisting, and in full force and effect. These registrations constitute evidence of the validity of the registered marks and of the registrations thereof, of Opposer's ownership of the marks, and of Opposer's exclusive right to use the marks in commerce in connection with the identified goods pursuant to Section 7(b) of the Lanham Act, 15 U.S.C. § 1057(b). Such registrations place others on constructive notice of

Opposer's claim of ownership thereof pursuant to Section 22 of the Lanham Act, 15 U.S.C. § 1072.

6. The foregoing registrations of Opposer are also incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and thus serve as *conclusive* evidence of Opposer's exclusive right to use the MANGO Marks in connection with the goods identified in the registrations pursuant to Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

7. Opposer also has common law rights in the MANGO Marks based on its extensive use and promotion of such marks in interstate and foreign commerce for decades.

II. APPLICANT'S APPLICATION AND PROPOSED MARK

8. On June 23, 2010, Applicant filed an intent-to-use application under Section 1(b) of the Lanham Act for "DVDs featuring music and live entertainment" in International Class 9 for the MANGO'S TROPICAL CAFE & Design mark ("Applicant's Proposed Mark"), which was assigned Serial No. 85/069,828.

9. The Application was published for opposition on December 7, 2010; Opposer's time to oppose the Application has since been extended to Monday, June 6, 2011.

10. Opposer acquired rights in the MANGO Marks long before Applicant filed the Application, long before any commercial use by Applicant of Applicant's Proposed Mark, and long before any priority date upon which Applicant may rely.

III. LIKELIHOOD OF CONFUSION

11. Applicant's Proposed Mark as used in association with the goods recited in the Application is so similar to Opposer's previously-used MANGO Marks as to be likely to create confusion, mistake, or deception as to the source, sponsorship, or affiliation of Applicant's goods in the minds of consumers and persons in the trade for the following reasons, among others:

12. The dominant element of Applicant's Proposed Mark is identical to Opposer's MANGO Marks and Applicant's Proposed Mark is thus virtually identical to the MANGO Marks in sight, sound, and commercial meaning.

13. The proposed goods recited in the Application are highly related to the goods and services offered by Opposer in connection with its MANGO Marks.

14. On information and belief, Applicant's goods offered under Applicant's Proposed Mark, if any, and Opposer's goods and services offered under its MANGO Marks are likely to be sold, marketed, and/or offered to the same classes of people.

15. On information and belief, the channels of trade for Applicant's goods offered under Applicant's Proposed Mark, if any, and the channels of trade for Opposer's goods and services offered under the MANGO Marks are the same.

16. Applicant's use and/or registration of Applicant's Proposed Mark for the goods listed in the Application is thus likely to cause confusion, cause mistake, or to deceive the public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

IV. INJURY TO OPPOSER

17. Registration of the Application would be inconsistent with Opposer's prior exclusive rights in the MANGO Marks and would threaten to destroy Opposer's investment and goodwill in such marks. Opposer therefore would be injured by registration of the Application.

18. If Applicant is granted registration of the Application herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of Applicant's Proposed Mark. Such registration would be a source of damage and injury to Opposer.

19. If Applicant is granted registration of the Application herein opposed, it would weaken the strength and reputation of the MANGO Marks, resulting in damage and injury to Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that the Application be denied registration. This Notice of Opposition is submitted electronically and the undersigned hereby authorizes the payment of all official filing fees or any other fees due from Deposit Account No. 50-4955.

Dated: June 6, 2011

Respectfully submitted,

UNIVERSAL INTERNATIONAL MUSIC B.V.

By: /Brent S. LaBarge/
Brent S. LaBarge
DeAnne H. Ozaki
c/o Universal Music Group
2220 Colorado Avenue
Santa Monica, California 90404
Telephone: (310) 865-1708
Email: brent.labarge@umusic.com

*Attorneys for Opposer Universal International
Music B.V.*

EXHIBIT 1

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-06-06 20:28:13 ET

Serial Number: 73299112 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1200278

Mark (words only): MANGO

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2002-09-25

Filing Date: 1981-02-27

Transformed into a National Application: No

Registration Date: 1982-07-06

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-03-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [UMG RECORDINGS INC](#)

Address:

[UMG RECORDINGS INC](#)
[100 UNIVERSAL CITY PLAZA](#)
[UNIVERSAL CITY, CA 91608](#)
[United States](#)

Legal Entity Type: [Corporation](#)

State or Country of Incorporation: [Delaware](#)

GOODS AND/OR SERVICES

International Class: [009](#)

Class Status: [Active](#)

Prerecorded Audio Tapes**Basis:** 1(a)**First Use Date:** 1980-08-01**First Use in Commerce Date:** 1980-08-01

ADDITIONAL INFORMATION

Prior Registration Number(s):

9859830

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-04-06 - Attorney Revoked And/Or Appointed

2011-04-06 - TEAS Revoke/Appoint Attorney Received

2008-03-28 - Case File In TICRS

2002-09-25 - First renewal 10 year

2002-09-25 - Section 8 (10-year) accepted/ Section 9 granted

2002-07-01 - Combined Section 8 (10-year)/Section 9 filed

2002-07-01 - PAPER RECEIVED

1988-09-12 - Section 8 (6-year) accepted

1988-08-15 - Response received for Post Registration action

1988-07-28 - Post Registration action mailed Section 8 & 15

1988-02-04 - Section 8 (6-year) and Section 15 Filed

1982-07-06 - Registered - Principal Register

1982-04-13 - Published for opposition

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

DeAnne Ozaki

Correspondent

DeAnne Ozaki
Universal Music Group
2220 Colorado Avenue
Santa Monica CA 90404
Phone Number: 310-865-1709
Fax Number: 310-865-1791

Domestic Representative

DeAnne Ozaki
Phone Number: 310-865-1709
Fax Number: 310-865-1791

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-06-06 20:28:53 ET

Serial Number: 74200708 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1749894

Mark



(words only): MANGO

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2003-04-21

Filing Date: 1991-09-04

Transformed into a National Application: No

Registration Date: 1993-02-02

Register: Principal

Law Office Assigned: LAW OFFICE 4

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-06-05

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [UNIVERSAL INTERNATIONAL MUSIC B.V.](#)

Address:

[UNIVERSAL INTERNATIONAL MUSIC B.V.](#)
[2220 Colorado Avenue](#)

Santa Monica, CA 90404

United States

Legal Entity Type: [Company](#)

State or Country Where Organized: [Netherlands](#)

Phone Number: 310 865-1709

Fax Number: 310 - 865-1791

GOODS AND/OR SERVICES

International Class: [009](#)

Class Status: [Active](#)

[musical sound recordings and](#)

Basis: [1\(a\)](#)

First Use Date: [1989-09-00](#)

First Use in Commerce Date: [1990-01-00](#)

ADDITIONAL INFORMATION

Design Search Code(s):

[02.01.01](#) - Busts of men facing forward; Heads of men facing forward; Men - heads, portraiture, or busts facing forward; Portraiture of men facing forward

[02.01.31](#) - Men, stylized, including men depicted in caricature form

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2011-04-06 - Attorney Revoked And/Or Appointed](#)

[2011-04-06 - TEAS Revoke/Appoint Attorney Received](#)

[2008-08-26 - Applicant/Correspondence Changes \(Non-Responsive\) Entered](#)

[2008-08-26 - TEAS Change Of Owner Address Received](#)

[2008-08-09 - Notice Of Design Search Code And Pseudo Mark Mailed](#)

[2008-06-05 - Case File In TICRS](#)

[2003-04-21 - First renewal 10 year](#)

[2003-04-21 - Section 8 \(10-year\) accepted/ Section 9 granted](#)

2003-01-21 - Combined Section 8 (10-year)/Section 9 filed

2003-01-21 - PAPER RECEIVED

1999-07-03 - Section 8 (6-year) accepted & Section 15 acknowledged

1999-02-02 - Section 8 (6-year) and Section 15 Filed

1999-02-02 - Section 8 (6-year) and Section 15 Filed

1993-02-02 - Registered - Principal Register

1992-09-15 - Published for opposition

1992-08-14 - Notice of publication

1992-06-11 - Approved for Pub - Principal Register (Initial exam)

1992-05-14 - Communication received from applicant

1992-01-23 - Non-final action mailed

1991-12-17 - Assigned To Examiner

1991-12-12 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

DeAnne Ozaki

Correspondent

DeAnne Ozaki

Universal Music Group

2220 Colorado Avenue

Santa Monica CA 90404

Phone Number: 310-865-1709

Fax Number: 310-865-1791

Domestic Representative

DeAnne Ozaki

Phone Number: 310-865-1709

Fax Number: 310-865-1791

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant by mailing said copy on June 6, 2011, via First Class Mail, postage prepaid, to:

David K. Friedland
Lott & Friedland, P.A.
P.O. Box 141098
Coral Gables, Florida 33114-1098

/Brent S. LaBarge/

Brent S. LaBarge